IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH SEPTEMBER 2006 / 29TH BHADRA 1928

OP.No. 4080 of 1999(I)

PETITIONER:

THE BANK OF INDIA, TRICHUR BRANCH
M.G.ROAD, TRICHUR, REP.BY ITS MANAGER.

BY ADV. SRI.MPR.NAIR
SRI.DEVAN RAMACHANDRAN

RESPONDENTS:
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1. **THE STATE OF KERALA, REP.BY ITS CHIEF SECRETARY, SECRETARIAT , TRIVANDRUM.**
2. **THE TAHSILDAR, REVENUE RECOVERY, TRICHUR.**
3. **M/S.VIJAYASREE FLOUR MILLS, PALLIKULAM ROAD, TRICHUR-1.**
4. **MRS.G.SELVARANI, PANDIT HOUSE, PALLIKULAM ROAD, TRICHUR 1.**
5. **MR.P.S.GANESH, PANDIT HOUSE, PALLIKULAM ROAD, TRICHUR 1.**
6. **MR.P.SUNDARAMURTHY, PANDIT HOUSE, PALLIKULAM ROAD, TRICHUR 1.**

BY GOVERNMENT PLEADER SRI.GEORGEKUTTY MATHEW
SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.6980/1999 IN OP. NO.4080/1999

DISMISSED

20.9.2006 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE DEMAND NOTICE.

EXT.P1(a):- ENGLISH TRANSLATION OF EXT.P1.

EXT.P2:- PETITIONER'S LETTER NO.TCHADV : 98-99: 337 DT.20.1.1999.

/TRUE COPY/

tss

C.N.RAMACHANDRAN NAIR,J.

O.P.NO. 4080 OF 1999

Dated this the 20th day of September, 2006

JUDGMENT

Since it has been held by this Court in the decision in STATE OF KERALA V. RAJMOHAN CASHEW (P) LTD., (2005) 2 K.L.T. 131, and in the decision in SOUTH INDIAN BANK LTD. V. STATE OF KERALA (2006) 1 K.L.T. 65 that State has priority over mortgage debt in recovery of arrears and recovery can be made by attachment and sale of mortgaged property, O.P. is dismissed but with a direction to the recovery authority to pay to the Bank excess amount, if any, available after adjusting the arrears of tax due to the State.

(C.N.RAMACHANDRAN NAIR)
Judge